

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

WILLIM F. KAETZ,

Plaintiff,

v.

EDUCATIONAL CREDIT MANAGEMENT
CORPORATION, *et al.*,

Defendants.

16cv9225 (EP) (LDW)

MEMORANDUM ORDER

PADIN, District Judge.

THIS MATTER comes before the Court upon Plaintiff William F. Kaetz's motion to:

(1) set aside Judge McNulty's¹ denial of Plaintiff's motion to set aside judgment pursuant to Fed. R. Civ. P. 60(d)(3) (D.E. 143), and subsequent denial of Plaintiff's motion for reconsideration (D.E. 145); and (2) recuse Judge McNulty from this matter. D.E. 147. The Court decides the motion on the papers. Fed. R. Civ. P. 78(b).

First, the portion of Plaintiff's motion requesting to set aside Judge McNulty's judgments must be denied because this Court was divested of the authority to grant the requested relief when Plaintiff filed his appeal raising the same issues to the Third Circuit on October 25, 2023. *See Venen v. Sweet*, 758 F.2d 117, 120 (3d Cir. 1985) ("As a general rule, the timely filing of a notice of appeal is an event of jurisdictional significance, immediately conferring jurisdiction on a Court of Appeals and divesting a district court of its control over those aspects of the case involved in the appeal."). Accordingly, the Court will deny this portion of Plaintiff's motion.

¹ This matter was reassigned from Judge McNulty to Judge Padin on December 6, 2023. D.E. 152.

See Fed. R. Civ. P. 62.1 (providing that court may deny party's motion where appeal on same issue is pending).

Second, the portion of Plaintiff's motion requesting to recuse Judge McNulty must be denied because Judge McNulty is no longer assigned to this matter. *See* D.E. 152. Accordingly, the Court will deny this portion of Plaintiff's motion as moot.

Accordingly, IT IS, on this 24th day of January, 2024;

ORDERED that Plaintiff William F. Kaetz's motion (D.E. 147) is **DENIED**.

Dated: January 24, 2024



Evelyn Padin, U.S.D.J.